

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

THOMAS E. LIPAR; LIPAR GROUP, INC.;
LGI LAND, LLC; LGI GP, LLC;
LGI DEVELOPMENT; JESSE VALERIANO;
JTI CONTRACTORS, INC; and
JTI CONSTRUCTION, INC.,

Defendants.

CIVIL ACTION NO. 4:10-cv-1904

**AMENDED MOTION FOR LEAVE TO TAKE
ORAL DEPOSITION OF AL ARMENDARIZ**

1. Defendants ask that the Court allow them to take the oral deposition of Al Armendariz, the recently resigned EPA administrator in the Region 6 Dallas office, for the following reasons:

2. Defendants have long contended that the EPA lacks evidence that Defendants have impacted “waters of the United States,” and that they are pursuing Defendants for purposes of harassment and to intimidate area developers to blindly follow EPA directives without questioning the veracity of the EPA’s assertions.

3. Defendants suspicions were recently validated by Mr. Armendariz, who explained the EPA's strategy of "crucifying" and applying intense "financial pressure" to a few "examples" in order to "conquer" an entire industry. Stated another way, as Defendants have suspected, the EPA's strategy, at the time this lawsuit was filed, was to "make an example out

of people ... and hit them as hard as you can” to “deter” others. *See* Ex. A (<http://www.youtube.com/watch?v=yoArEFkDEP8>).¹

4. Defendants believe that deposing Mr. Armendriz, who led EPA Region 6 at the time this action was filed, about the EPA’s strategy, will confirm that this lawsuit was filed for the purpose of harassing Defendants and otherwise improperly making an “example” of them and that dismissal and sanctions are appropriate. For these reasons, Defendants wish to take the deposition of Al Armendariz.

Respectfully submitted,

/s/ Casey T. Wallace

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¹ Concurrent with the filing of this motion, Defendants are providing the Court and all parties with a hard copy of the motion and a disk containing Exhibit A.

CERTIFICATE OF CONFERENCE

Counsel for defendants has in good faith conferred with counsel for the government and they are opposed to the motion and the relief being sought.

/s/ Casey T. Wallace

Casey T. Wallace

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Amended Motion for Leave to Take Oral Deposition of Al Armendariz has been served on all counsel of record, as indicated below, in accordance with the Federal Rules of Civil Procedure on this 3rd day of May, 2012.

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/s/ Casey T. Wallace

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